

1961

## CONGRESSIONAL RECORD — SENATE

18401

resolution (S. Res. 212) authorizing additional expenditures for the investigation of juvenile delinquency in the United States, which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full when reported by Mr. EASTLAND, which appears under the heading "Reports of Committees.")

# WITHHOLDING AND FORFEITURE OF PAY AND ALLOWANCES OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES WHILE PRISONERS OF WAR

Mr. BUTLER. Mr. President, as a result of a decision by the Supreme Court of the United States on May 22, 1961, in the infamous "turncoat" case, I introduced a bill, S. 985, on May 29, 1961, which would prevent in the future the payment of such pay and allowances to men who, after becoming prisoners of war and while in the custody of the enemy, voluntarily rendered aid, comfort, or assistance to the enemy or acted voluntarily in any other manner inconsistent with his obligation of loyalty to the United States, his obligation to the Armed Forces of the United States, or the continued health, comfort, safety, or well-being of any fellow prisoner who was a national of the United States or any nation friendly to the United States.

That bill was referred to the Armed Services Committee, which asked for and received reports from the General Accounting Office and from the Department of Defense. The GAO approved my bill in substance, while suggesting one slight modification. The Department of Defense on the other hand suggested that it be rewritten and submitted a draft bill.

The Department is apparently reluctant to give the Secretary the authority to withhold pay and allowances without formal court-martial proceedings having been undertaken. It feels that to do otherwise would lead to charges of a star chamber proceeding and that it would not be consistent with our American system of justice and fairplay. One cannot disagree with this rationale.

I am, therefore, introducing at this time a new bill, which gives the Secretary the authority to withhold any pay or allowances due or to become due a member of a uniformed service who is formally charged with committing a violation of articles 104 and 105 of the Uniform Code of Military Justice. Section 104 relates to aiding the enemy, and section 105 relates to misconduct while a prisoner of war. The bill also provides that the pay and allowances which have been withheld shall be paid to the member if the charge is subsequently dismissed; he is acquitted of the offense; or if he is convicted of the offense, but, on review, the finding of guilty is set aside under conditions that prevent further trial within a reasonable time. The Department of Defense has not only approved this language, but it has suggested it.

I have, however, made one addition to the Department's suggested language. This new section provides that, in the

case of any prisoner who is charged with a violation of the aforementioned section of the UCMJ, but has not been subjected to actual court-martial proceedings because he has not returned to the United States and who dies before returning to the United States, any pay and allowances which are due or which will become due will be forfeited and they will not be the subject of court proceedings to recover them. This section also provides that no court of the United States shall have jurisdiction to entertain any such proceedings. This section is necessitated by the fact that a man cannot be court-martialed in absentia and, therefore, if he stays with the enemy until his death, the estate would have a valid claim against the United States for all pay and allowances which were due him, be it for 1 year, 10 years, 20 years, or more. Representatives of the Defense Department have indicated their tentative approval of this section also.

Because this is an important bill, Mr. President, I am introducing it at this time as a substitute to my S. 985, and sincerely hope that the committee will report it out immediately.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2557) to provide for the withholding and the forfeiture of the pay and allowances of certain members of the uniformed services who, while prisoners of war, aid the enemy or are guilty of other misconduct, and for other purposes, introduced by Mr. BUTLER, was received, read twice by its title, and referred to the Committee on Armed Services.

## AMENDMENT OF INTERSTATE COMMERCE ACT TO STRENGTHEN AND IMPROVE THE NATIONAL TRANSPORTATION SYSTEM

Mr. SMATHERS. Mr. President, I introduce, for appropriate reference, a bill designed to assist the States and the Federal agencies in their joint efforts to control illegal interstate transportation on the highways. There has been a tremendous recent growth in "gray" area and "black" area truck operations—those operations without State or Federal authority.

Major railroads, trucking, and shipping organizations have formed a Committee Against Unauthorized Transportation and to combat these illegal operations. This committee estimates that the amount of such illicit carriage may go as high as 25 percent of total truck movements. The committee plans an education campaign among shippers on the dangers of employing illegal truckers and are working for stricter and more effective enforcement of existing laws against this illegal truck traffic.

Hearings conducted this session before the Subcommittee on Surface Transportation indicate that present law is not adequate. Despite a recent increase in the level of penalties assessable, illegal transportation continues to drain an ever increasing amount of traffic from the legitimate rail, truck, and water carriers. The fines imposed under present law, are insufficient and in the words of

a "gray area" trucker merely make it a little more expensive to do business. These fines are ultimately passed on to the shipper.

I should add that these illegal operators represent more than a diversion of income from the carrier who obeys the law. That alone would be serious enough in view of the economic crisis in which all our regulated modes of transportation find themselves. But the shipper, too, who obeys the law and uses a legitimate carrier finds himself at a disadvantage in relation to his competitor who uses illicit truckers.

A continuation of this situation is leading to economic jungle warfare, and it undermines respect for the law and further discourages our regulated, legal transportation system.

This is a problem of extreme seriousness. I hope that between now and the time Congress reconvenes in January that each of us will take the opportunity to discuss this matter with the leading railroads, truckers, and water carriers in our States in order to learn of the urgency of affirmative action to stop this growing threat to our transportation industry.

In the interim I am introducing proposed legislation which is an outgrowth of our hearings, to serve as a first step in improving present conditions and the law in the field of transportation. This proposal does not pretend to be the final solution to this problem, but it can be utilized as a starting point.

At the same time I am calling on the representatives of the trucking, water carriers, and railroad industries as well as State officials and shippers to meet with the subcommittee staff on surface transportation during the recess to make suggestions and offer amendments to this proposed legislation, and if need be to assist in drafting additional legislation for introduction early next year. All legitimate operators have a common interest in this problem, that supersedes intermodal squabbles in the transportation industry.

Mr. President, I submit for the RECORD a brief section-by-section analysis of the measure I am now introducing.

Section 1: Would amend section 202 (b) of the Interstate Commerce Act to establish uniformity in State regulation of interstate motor carriers. Approximately 35 States now require that ICC certificated carriers register their operating rights in the State before conducting business in the State. Thus if a carrier is stopped and is found to be carrying a regulated type commodity but he has no authority to transport such a commodity he is in violation, not only of the Interstate Commerce Act, but of the State law as well. The proposed provision has a dual purpose: First, encourage these efforts by State officials; and, Second, establish uniform standards so as to reduce the burden on those lawfully engaged in interstate commerce.

Section 2: Would amend section 222 (b) so as to provide that any person injured by certain violations of the Interstate Commerce Act would be able to obtain an injunction against the violator. Under this amendment violations of the Act which now occur by persons who do